

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

KEVIN GALLADAY,

Petitioner,

– against –

WARDEN, MRS. CARTER, NYC DEPARTMENT  
OF CORRECTION,

Respondent.

**ORDER**

23-cv-823 (ER)

Ramos, D.J.:

Kevin Galladay, proceeding *pro se*, brought this petition for writ of *habeas corpus* on January 31, 2023. Doc. 1. He challenged his pre-trial detention in connection with a criminal case pending in the Supreme Court of the State of New York, New York County, docket number CR-022514-21. *Id.*

Galladay did not specify a statutory basis for his petition. *See id.* Accordingly, the Court issued an order on February 2, 2023, providing that it would construe the petition as brought pursuant to 28 U.S.C. § 2241. Doc. 4 (“the February 2023 Order”) at 2–3. The Court further identified several defects in Galladay’s petition and ordered that he file an amended § 2241 petition by March 6, 2023. *Id.* at 3. Specifically, the Court ordered Galladay to (1) identify all of the grounds on which he sought relief, and (2) plead facts to show that he fully exhausted his state court remedies. *Id.* The order provided that failure to respond or file an amended petition would result in dismissal of the action without prejudice. *Id.* at 5. The Court also noted that federal courts generally may not intervene in pending state criminal proceedings unless there exist special circumstances suggesting bad faith, harassment or irreparable injury. *Id.* at 4; *see also Younger v. Harris*, 401 U.S. 37 (1971). Thus, to the extent Galladay sought relief requiring

such intervention, the Court must deny the request, as Galladay had alleged no special circumstances. *Id.*

Galladay failed to amend his petition by March 6. On March 22, 2023, the Court issued a second order, which again directed Galladay to amend his petition to cure the defects noted in the February 2023 Order. Doc. 6 (“the March 2023 Order”). The Court granted Galladay until April 21, 2023 to so amend. *Id.* The Court again warned Galladay that failure to comply would result in dismissal of the action. *Id.*

On April 18, 2023, Galladay filed an amended petition, which was received by the Court on April 24, 2023. Doc. 7. Galladay’s amended petition, however, fails to cure the defects identified in the March 2023 Order. It neither sufficiently states the grounds upon which Galladay seeks relief nor pleads exhaustion of state court remedies.

Moreover, Galladay’s amended petition indicates that the criminal proceedings against him in state court remain ongoing. *See Doc. 7.* As the Court previously noted—absent a suggestion of bad faith, harassment or irreparable injury—the Court *must* deny the petition to the extent it seeks relief that would require the Court to intervene in Galladay’s pending state-court proceedings. Doc. 4 at 4 (citing *Younger*, 401 U.S.; *Heicklen v. Morgenthau*, 378 F. App’x 1, 2 (2d Cir. 2010) (quoting *Gibson v. Berryhill*, 411 U.S. 564, 573-74 (1973))). That is because “under the principle known as comity a federal district court has no power to intervene in the internal procedures of the state courts.” *Kaufman v. Kaye*, 466 F.3d 83, 86 (2d Cir. 2006) (quoting *Wallace v. Kern*, 481 F.2d 621, 622 (2d Cir. 1973)). As Galladay’s amended petition alleges no facts suggesting bad faith, harassment, or irreparable injury, the Court finds no proper basis for intervention in Galladay’s ongoing criminal proceedings.

Accordingly, Galladay’s petition is dismissed. The Court certifies under 28 U.S.C. §

1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. *Cf. Coppededge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue). The Clerk of Court is respectfully directed to close the case and mail a copy of this order to Galladay.

It is SO ORDERED.

Dated: May 1, 2023  
New York, New York



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EDGARDO RAMOS, U.S.D.J.